

### **REMARKS**

The subject amendment has been made in a good faith attempt to advance the prosecution of this application and consolidate the issues for appeal.

Claims 1 and 13 have been amended to incorporate the requirements of claim 7 and to clarify that the hair oil consists essentially of (i) from 60 to 80% by weight of a first oily component which is coconut oil and (ii) from 20% to 40% by weight of a second oily component as therein more particularly described. It is respectfully submitted that this amendment overcomes the 35 USC 112 rejection. Claim 7 has been cancelled without prejudice.

Claims 1, 7 and 13-17 stand rejected under 35 USC 103(a) as unpatentable over GB 564551 in view of EP 0546235 in further view of Brown et al. (US 5,422,118). Additionally, claims 13-17 stand rejected as unpatentable over DE 1035855, optionally in view of Pavlin (US 5,998,570).

Pursuant to the subject invention was found that the application to the hair of a hair oil consisting essentially of from 60 to 80% by weight coconut oil and from 20 to 40% of a light mineral oil or other low viscosity hydrocarbon oil provides an effective means of conditioning hair by enhancing the penetration of the hair oil into the hair fiber, with a composition having superior sensory properties, in particular, a less greasy feel than that of coconut oil alone.

GB 564551 discloses hair oils into which ethyl oleate (an ester oil) is incorporated into a "non-drying" vegetable oil such as castor oil, olive oil, sesame oil, almond oil, ground nut oil or arachis oil, to impart a less greasy feel. The patent gives as suitable examples of hair oils compositions that contain:

70% ethyl oleate and 30% of castor oil,  
50% of ethyl oleate and 50% of olive oil, and  
40% of ethyl oleate and 60% of almond oil.

The patent further discloses that "If desired, other substances such as fats, waxes, vegetable or mineral oils may be incorporated with preparations in accordance with the invention." There is, however, nothing in GB 564551 that discloses or suggests the incorporation of light mineral oil or a low viscosity hydrocarbon oil as a means of imparting a less greasy feel to hair oils having high contents of coconut oil, and the additional components therein mentioned are clearly optional components that may be added in addition to and not in lieu of the ethyl oleate (which is exemplified at levels of 40-70%) and non-drying vegetable oil. Nor is there any teaching in GB 564551 that the incorporation of a light mineral oil or low viscosity hydrocarbon oil into a composition containing the relatively high levels of coconut oil set forth in the amended claims would provide a hair oil having improved penetration into the hair fibers and, therefore, enhanced conditioning benefits.

EP 0546235 is directed to a method of treating the scalp to stop hair loss and stimulate hair regrowth (as opposed to teaching a method of conditioning hair) wherein at least three vegetable oils or fats with greatly differing saponification and iodine numbers are combined. In the second full paragraph at page 3 the patent states: "The hair restorer of the invention is characterized in that it is a mixture of castor oil, almond oil and olive oil, with these vegetable oils or fats preferably present in equal proportions in the mixture. " Beginning at the 3<sup>rd</sup> full paragraph of page 4 (translation text), the patent states:

When used individually, cosmetic and medical applications are known for all three of the oils mentioned. This also applies to an additional vegetable oil, which in accordance with a further feature of the invention is advantageously added. The oil in question is coconut oil...

If, as is preferably provided by the invention, the vegetable oils are present in the mixture in equal proportions, their characteristics come to maximally balanced effect and give optimum results for the types of oil used.

The saponification number is said to be indicative of the "average molecular size of the fatty acids that are present. The higher the saponification number the more low molecular weight, volatile fatty acids are present." In the single example provided, a mixture of 1/6 parts by volume each of castor oil, sweet almond oil, olive

oil, coconut oil, glycerol and paraffin is disclosed. Given the combined amount of other oils, it is apparent that the mixture contains substantially less than the 60-80% by weight, based on total weight of coconut oil required by the amended claims. Thus, the clear teaching of EP '235 is the use of a combination of at least three vegetable oils chosen to provide different properties in terms of their saponification values and iodine numbers, and away from a composition containing the 60 to 80% coconut oil required by the subject claims.

Brown et al. is directed to the transdermal application of physiologically active amines complexed with fatty acids. It has nothing to do with treating hair. The focus of the patent is on the selection of a solvent that transports the fatty acid salt through the skin. Brown lists any of a number of suitable solvents including mineral oils and fatty esters, as well as nonpolar, nonvolatile alcohols. However, it should be kept in mind that the mineral oils and fatty esters are disclosed as solvents for the particular salts therein disclosed and that the citation is not teaching equivalency of these components in hair oil systems.

Given the difference in function and composition, there is nothing that would suggest the combination of these particular references. Even if combined, it is not clear that the subject compositions would result. GB 564551 clearly teaches ethyl oleate as a required component at relatively high levels in the hair oils therein disclosed; mineral oil being but an optional component that may supplement but not replace the fatty ester. EP 0546235 teaches compositions that will inherently have high levels of vegetable oils other than coconut oil, with coconut oil being present in amounts far below that of the subject claims. Accordingly it is respectfully submitted that the combination fails to disclose or suggest methods of treating hair with the particular compositions disclosed by the subject claims, and certainly fails to provide any motivation for incorporating a light mineral or low viscosity hydrocarbon oil into a coconut oil-based hair oil as a means of improving the fiber penetration properties thereof.

DE 103588855 discloses skin and hair cosmetics that contain one or more N-acylamino acid esters. A variety of compositions are disclosed including skin cream, hair lotion, and hair oil. Notably, the exemplified skin cream and hair lotions contain

relatively high levels of water. The hair oil is a composition that contains 50.0% olive oil, 40.0% paraffin oil, 9.0% isopropyl myristate 0.5% d,1-N-salicylyl-methionine isopropyl ester and 0.5% 1-N-acetyl-cysteine isopropyl ester

Pavlin et al. directed to gelling agents for low polarity liquids, such gelling agents being ester-terminated polyamides.

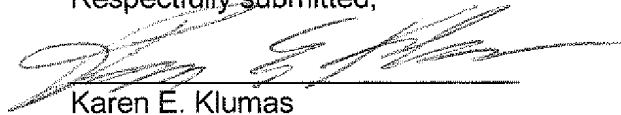
There is nothing in either the German citation or Pavlin et al., alone or in combination, that discloses or suggests compositions containing coconut oil in the amounts thereof required of the compositions used in the hair treatment methods of the instant claims, or the addition of light mineral oil or a low viscosity hydrocarbon oil into a coconut-based hair oil as a means of improving the fiber penetration properties thereof.

The subject application claims priority from an application first filed in the United Kingdom. The undersigned attorney understands that the subject inventors all reside outside of the United States, the residence for each being identified as the United Kingdom (UK) in the US declaration. To respond to the Examiner's request for information under 37 CFR 1.105, the undersigned attorney has made inquiry of the UK agent having responsibility for the corresponding UK filing, for information regarding the Clinic Plus product referenced to in Krishnan, Hair Oil; Time for Consolidation, the Hindu Sunday, January 21, 2001. To date, the undersigned attorney has not received this information. The undersigned attorney does not know either the composition of the Clinic Plus product or whether the Clinic Plus product was available in a manner that would give rise to a statutory bar.

In view of the comments set forth above reconsideration and allowance of the subject claims as hereby amended is respectfully requested.

If a telephone conversation would be of assistance in advancing the prosecution of the present application, applicants' undersigned attorney invites the Examiner to telephone at the number provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Karen E. Klumas', is written over a horizontal line.

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